

Bear Run Mine Amendment 5

Background:

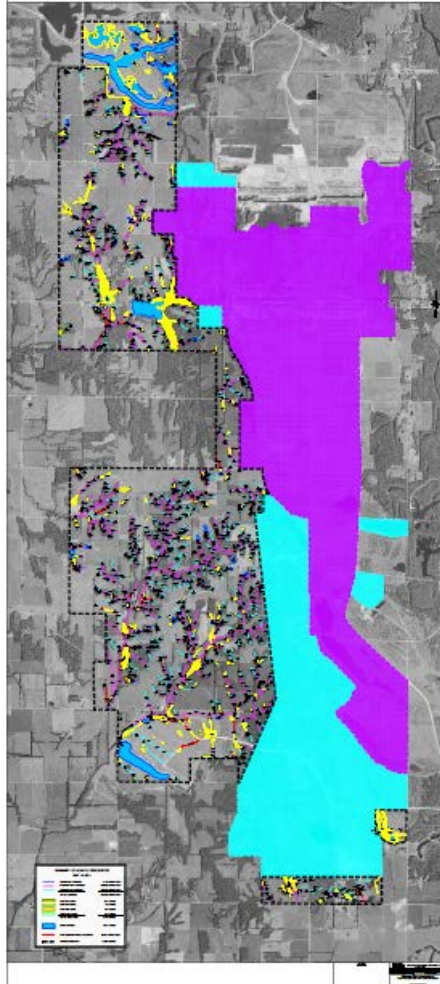
EPA has received the Clean Water Act Section 404 permit application dated September 2, 2011 for the Bear Run Amendment 5. The applicant, Peabody Midwest Mining, LLC (Peabody), is proposing to impact 498,783 linear feet (lft) of streams and 158.63 acres of wetlands in Sullivan County, Indiana, approximately 6 miles southwest of the town of Dugger. The U.S. Army Corps of Engineers (Corps) has recently indicated it believes that the method used by Peabody to quantify the impacts of the project resulted in underestimation or inaccurate total of stream impacts, however the magnitude is unclear.

The purpose of Bear Run Amendment 5 is to expand surface coal mining activities by 7,252.2 acres on the Bear Run Mine in the Buttermilk Creek, Middle Fork Creek, Maria Creek, Pollard Ditch, and Brewer Ditch-Black Creek watersheds (tributaries of the Lower White River and Middle Wabash-Busseron). Operation of the Amendment 5 area is tentatively scheduled for 2015-2032.

Two previous Section 404 permits (Bear Run Amendments 1-3, a.k.a. 'Bear Run East Pit,' and Bear Run Amendment 4) are associated with this project, totaling approximately 249,471 lf of stream impacts and 89 acres of wetland impacts over 7,142.5 acres of mine area. The previous portions of the project were permitted in October 2001 and February 2011, respectively. Amendment 5 would bring the total Bear Run Mine aquatic impacts to 748,254 linear feet of streams and 247 acres of wetlands.

The Region previously commented that Bear Run Amendment 4, would have a substantial and unacceptable impact on aquatic resources of national importance pursuant to Part IV, 3(b) of the 1992 Memorandum of Agreement between EPA and the Department of the Army regarding CWA Section 404(q). EPA's letter to the Louisville District on June 11, 2010 recommended that the Corps undertake an EIS. The Corps choose not to pursue an EIS, and following revisions to the application and proposals for additional mitigation, the EPA lifted its objection to Amendment 4.

During the pre-application meeting for the Bear Run Amendment 5 project in September 2011, Peabody briefly discussed a 6th amendment to the Bear Run Mine project with EPA staff. This amendment would impact additional waters of the U.S. as they expand and mine westward toward the Wabash River. Bear Run Amendment 5 singularly, and the Bear Run Mine cumulatively, exceeds several thresholds for significance based on the context and intensity of the project. EPA is preparing a letter which will strongly recommend that the Corps prepare an EIS for this project. An EPA/Corps site visit is scheduled for November 29, 2011, and a meeting between EPA, the Corps and Peabody is tentatively scheduled for December 12, 2011.



Bear Run Mine

Amendments 1-3 shaded purple

Amendment 4 shaded blue

Amendment 5 area within dashed line

Status:

Peabody has submitted the Bear Run Amendment 5 Section 404 permit application to the Corps. The Corps has not completed the Jurisdictional Determination and has not placed the project on Public Notice. IDEM and IDNR have not reached a determination on the 401 or the SMCRA permit, respectively.

Messages:

EPA will strongly recommend the preparation of an EIS for this project given the significance of environmental impacts, which include substantial and adverse impacts to wetlands and streams, unique and unknown risks presented, and cumulative impact to the watersheds from previous and proposed amendments to the Bear Run complex.

EPA will provide detailed comments on the forthcoming Public Notice and associated Section 404 permit application materials on Bear Run Amendment 5.

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